

**U.S. District Court
U.S. District of Minnesota (DMN)
CRIMINAL DOCKET FOR CASE #: 0:10-cr-00173-MJD-JJG All
Defendants**

Case title: USA v. Wilcox
Related Case: 0:13-cv-01067-MJD

Date Filed: 06/15/2010
Date Terminated: 04/08/2011

Assigned to: Chief Judge Michael J.
Davis
Referred to: Magistrate Judge
Jeanne J. Graham

Appeals court case number:
11-1835 USCA

Defendant (1)

Kenneth Leon Wilcox
TERMINATED: 04/08/2011

represented by **Kenneth Leon Wilcox**
Reg. No. 15228-041
USP – Tucson
P.O. Box 24550
Tucson, AZ 85734
PRO SE

Douglas Olson
Office of the Federal Defender
300 S 4th St, Ste 107
Minneapolis, MN 55415
612-664-5858
Fax: 612-664-5850
Email: doug_olson@fd.org
TERMINATED: 04/15/2011
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

Katherine Menendez
Office of the Federal Defender
300 S 4th St Ste 107
Mpls, MN 55415
612-664-5858
Fax: 612-664-5850
Email: kate_menendez@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

Katherian D Roe

Office of the Federal Defender

300 S 4th St Ste 107

Mpls, MN 55415

612-664-5858

Fax: 612-664-5850

Email: katherian_roe@fd.org

TERMINATED: 06/28/2010

*Designation: Public Defender or Community
Defender Appointment*

Pending Counts

18:2423(a) TRANSPORTATION
OF A MINOR WITH INTENT TO
ENGAGE IN CRIMINAL SEXUAL
ACTIVITY

(1)

18:2251(a) and (e) PRODUCTION
OF CHILD PORNOGRAPHY

(2)

Highest Offense Level (Opening)

Felony

Terminated Counts

18:2423(a) TRANSPORTATION
OF A MINOR WITH INTENT TO
ENGAGE IN CRIMINAL SEXUAL
ACTIVITY

(3)

18:2251(a) and (e) PRODUCTION
OF CHILD PORNOGRAPHY

(4)

18:2423(a) TRANSPORTATION
OF A MINOR WITH INTENT TO
ENGAGE IN CRIMINAL SEXUAL
ACTIVITY

(5)

18:2251(a) and (e) PRODUCTION
OF CHILD PORNOGRAPHY

(6)

Disposition

Custody of the BOP for 480 months consisting of
480 months on Count 1 and 360 months on Count 2
to be served concurrently; Supervised Release term
of Life on each of Counts 1 and 2 to run
concurrently; \$200.00 total Special Assessment;
Restitution is undetermined

Custody of the BOP for 480 months consisting of
480 months on Count 1 and 360 months on Count 2
to be served concurrently; Supervised Release term
of Life on each of Counts 1 and 2 to run
concurrently; \$200.00 total Special Assessment;
Restitution is undetermined

Disposition

Dismissed

Dismissed

Dismissed

Dismissed

Dismissed

18:2423(a) TRANSPORTATION
OF A MINOR WITH INTENT TO
ENGAGE IN CRIMINAL SEXUAL
ACTIVITY

(7)

18:2251(a) and (e) PRODUCTION
OF CHILD PORNOGRAPHY

(8)

Dismissed

18:2423(a) TRANSPORTATION
OF A MINOR WITH INTENT TO
ENGAGE IN CRIMINAL SEXUAL
ACTIVITY

(9)

Dismissed

18:2251(a) and (e) PRODUCTION
OF CHILD PORNOGRAPHY

(10)

Dismissed

Highest Offense Level
(Terminated)

Felony

Complaints

None

Disposition

Plaintiff

USA

represented by **Benjamin Bejar**
United States Attorney's Office – St. Paul
316 North Robert Street, Suite 404
St. Paul, MN 55101
651-848-1920
Fax: 651-848-1943
Email: benjamin.bejar@usdoj.gov
ATTORNEY TO BE NOTICED

James S Alexander
United States Attorney's Office
300 S 4th St Ste 600
Mpls, MN 55415
612-664-5600
Fax: 612-664-5788
Email: jim.alexander@usdoj.gov
ATTORNEY TO BE NOTICED

Karen B Schommer
United States Attorney's Office
300 S 4th St Ste 600
Minneapolis, MN 55415

612-664-5600
 Fax: 612-664-5787
 Email: karen.schommer@usdoj.gov
ATTORNEY TO BE NOTICED

Kimberly A Svendsen
 United States Attorney's Office
 300 S 4th St Ste 600
 Mpls, MN 55415
 612-664-5600
 Fax: 612-664-5786
 Email: kimberly.svendsen@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
06/15/2010	<u>1</u>		INDICTMENT (Unsealed 6/17/10) assigned to Chief Judge Michael J. Davis referred to Magistrate Judge Jeanne J. Graham by USA Kimberly A. Svendsen as to Kenneth Leon Wilcox (1) counts 1-10. Forfeiture Allegations as to this Indictment. 8 pgs (LEG) Attached document and modified text on 6/17/2010 (leg). (Entered: 06/16/2010)
06/15/2010			ORAL ORDER SEALING CASE by Judge Ann D. Montgomery on 6/15/10 as to Kenneth Leon Wilcox. (LEG) (Entered: 06/16/2010)
06/17/2010	2		MOTION to Unseal Case filed by USA as to Kenneth Leon Wilcox. 1 pg. (las) (Entered: 06/17/2010)
06/17/2010	<u>3</u>		ORDER as to Kenneth Leon Wilcox (1). IT IS HEREBY ORDERED THAT: The Government's motion is GRANTED. The above-referenced matter is hereby unsealed. Signed by Magistrate Judge Susan R. Nelson on 6/17/10. (LEG) (Entered: 06/17/2010)
06/21/2010	<u>4</u>		APPLICATION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM as to Kenneth Leon Wilcox Writ issued and delivered to the USM on 6/21/10.Signed by Magistrate Judge Susan R. Nelson on 6/18/10. (GMO) (Entered: 06/21/2010)
06/23/2010	<u>5</u>		Minute Entry for proceedings held before Magistrate Judge Franklin L. Noel: Initial Appearance as to Kenneth Leon Wilcox held on 6/23/2010. Counsel Appt'd. Govt moves for and temporary detention ordered. (Next appearance date: Arraignment and Detention Hearing set for 6/24/2010 02:00 PM in Courtroom 9W (MPLS) before Magistrate Judge Franklin L. Noel.) (las) (Entered: 06/23/2010)
06/23/2010	<u>6</u>		ORDER OF TEMPORARY DETENTION as to Kenneth Leon Wilcox - Arraignment/Detention Hearing set for 6/24/2010 02:00 PM in Courtroom 9W (MPLS) before Magistrate Judge Franklin L. Noel. Signed by Magistrate Judge Franklin L. Noel on 06/23/2010. (las) (Entered: 06/23/2010)
06/24/2010	<u>7</u>		Minute Entry for proceedings held before Magistrate Judge Franklin L. Noel:Arraignment as to Kenneth Leon Wilcox (1) Count 1,2,3,4,5,6,7,8,9,10 held on 6/24/2010. Not Guilty Plea Entered. Disclosure due by 7/2/2010; Motions due by 7/13/2010; Motion Hearing set for 7/27/2010 01:30 PM in

		Courtroom 3B (STP) before Magistrate Judge Jeanne J. Graham; Voir Dire/Jury Instructions deadline due by 8/9/2010; Jury Trial set for 8/23/2010 09:00 AM in Courtroom 15E (MPLS) before Chief Judge Michael J. Davis. (jdf) (Entered: 06/25/2010)
06/24/2010	<u>8</u>	Minute Entry for proceedings held before Magistrate Judge Franklin L. Noel:Detention Hearing as to Kenneth Leon Wilcox held on 6/24/2010; Counsel present; Deft Ordered Detained – Govt to submit proposed order; Defendant also arraigned. See separate minutes. (jdf) (Entered: 06/25/2010)
06/24/2010	<u>13</u>	Bench Warrant Returned Executed on 6/23/2010 as to Kenneth Leon Wilcox.(las) (Entered: 07/06/2010)
06/25/2010	<u>9</u>	ARRAIGNMENT ORDER as to Kenneth Leon Wilcox. Signed by Magistrate Judge Franklin L. Noel on 6/25/10. (jdf) (Entered: 06/25/2010)
06/28/2010	<u>10</u>	MOTION for Discovery by USA as to Kenneth Leon Wilcox. (Attachments: # <u>1</u> Certificate of Service) (Svendsen, Kimberly) (Entered: 06/28/2010)
06/28/2010	<u>11</u>	NOTICE OF ATTORNEY APPEARANCE/SUBSTITUTION for Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 06/28/2010)
06/29/2010	<u>12</u>	ORDER OF DETENTION as to Kenneth Leon Wilcox. Signed by Magistrate Judge Franklin L. Noel on 6/28/10. (GMO) (Entered: 06/29/2010)
07/13/2010	<u>14</u>	MOTION for Disclosure of 404(b) Evidence by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>15</u>	MEMORANDUM in Support by Kenneth Leon Wilcox re <u>14</u> MOTION for Disclosure of 404(b) Evidence (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>16</u>	MOTION to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>17</u>	MEMORANDUM in Support by Kenneth Leon Wilcox re <u>16</u> MOTION to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>18</u>	MOTION for Discovery and Inspection by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>19</u>	MOTION for Discovery and Inspection of Products and Records of Electronic Surveillance by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>20</u>	MEMORANDUM in Support by Kenneth Leon Wilcox re <u>19</u> MOTION for Discovery and Inspection of Products and Records of Electronic Surveillance (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>21</u>	MOTION for Disclosure of Jencks Act Material by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>22</u>	MOTION to Retain Rough Notes by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>23</u>	MOTION for Discovery of Expert Under Rule 16(a)(1)(G) by Kenneth Leon

		Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>24</u>	MOTION to Suppress <i>Evidence Obtained as a Result of Search and Seizure</i> by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>25</u>	MOTION to Suppress <i>Statements, Admissions, and Answers</i> by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 07/13/2010)
07/13/2010	<u>26</u>	Certificate of Service by Kenneth Leon Wilcox re <u>22</u> MOTION to Retain Rough Notes, <u>17</u> Memorandum in Support of Motion, <u>16</u> MOTION to Compel <i>Attorney for the Government to Disclose Evidence Favorable to the Defendant</i> , <u>15</u> Memorandum in Support of Motion, <u>20</u> Memorandum in Support of Motion, <u>18</u> MOTION for Discovery <i>and Inspection</i> , <u>19</u> MOTION for Discovery <i>and Inspection of Products and Records of Electronic Surveillance</i> , <u>25</u> MOTION to Suppress <i>Statements, Admissions, and Answers</i> , <u>21</u> MOTION for Disclosure of <i>Jencks Act Material</i> , <u>24</u> MOTION to Suppress <i>Evidence Obtained as a Result of Search and Seizure</i> , <u>23</u> MOTION for Discovery of <i>Expert Under Rule 16(a)(1)(G)</i> , <u>14</u> MOTION for Disclosure of <i>404(b) Evidence</i> .(Olson, Douglas) (Entered: 07/13/2010)
07/20/2010	<u>27</u>	RESPONSE by USA as to Kenneth Leon Wilcox re <u>22</u> MOTION to Retain Rough Notes, <u>17</u> Memorandum in Support of Motion, <u>16</u> MOTION to Compel <i>Attorney for the Government to Disclose Evidence Favorable to the Defendant</i> , <u>15</u> Memorandum in Support of Motion, <u>20</u> Memorandum in Support of Motion, <u>18</u> MOTION for Discovery <i>and Inspection</i> , <u>19</u> MOTION for Discovery <i>and Inspection of Products and Records of Electronic Surveillance</i> , <u>25</u> MOTION to Suppress <i>Statements, Admissions, and Answers</i> , <u>21</u> MOTION for Disclosure of <i>Jencks Act Material</i> , <u>24</u> MOTION to Suppress <i>Evidence Obtained as a Result of Search and Seizure</i> , <u>23</u> MOTION for Discovery of <i>Expert Under Rule 16(a)(1)(G)</i> , <u>14</u> MOTION for Disclosure of <i>404(b) Evidence</i> (Attachments: # <u>1</u> Certificate of Service) (Svensden, Kimberly) (Entered: 07/20/2010)
07/27/2010	<u>28</u>	Minute Entry for proceedings held before Magistrate Judge Jeanne J. Graham: Motion Hearing as to Kenneth Leon Wilcox held on 7/27/2010. Deft's post-hearing memorandum due 08/04/2010. Govt's post-hearing memorandum due 08/09/2010. Motions taken under advisement on 08/09/2010. Order &RR to be issued. (Court Reporter Ron Moen) (las) (Entered: 07/28/2010)
07/30/2010	<u>29</u>	DATE CERTAIN TRIAL NOTICE as to Kenneth Leon Wilcox. The Jury Trial is set for 9/27/2010 at 2:00 PM in Courtroom 15E (MPLS) before Chief Judge Michael J. Davis. Please read the trial notice for all deadlines and due dates of trial materials. (KMW) (Entered: 07/30/2010)
08/05/2010	<u>30</u>	LETTER TO MAGISTRATE JUDGE by Kenneth Leon Wilcox (Olson, Douglas) (Entered: 08/05/2010)
08/05/2010	<u>31</u>	ORDER re <u>30</u> Letter to Magistrate Judge filed as to Kenneth Leon Wilcox. The extension is granted. Signed by Magistrate Judge Jeanne J. Graham on 8/5/10. (KNK) (Entered: 08/06/2010)
08/09/2010	<u>32</u>	NOTICE of Filing of Official Transcript, as to Kenneth Leon Wilcox. A total of 1 transcripts are associated with this filing. (RJM) (Entered: 08/09/2010)

08/09/2010	<u>33</u>	PARTIAL TRANSCRIPT (Excerpt) of Motions Hearing held on 7/27/2010 before Magistrate Judge Jeanne J. Graham as to Kenneth Leon Wilcox. (35 pages) Court Reporter: Ron Moen (E-mail: Ron_Moen@mnd.uscourts.gov. Telephone: (651) 848-1222). Redaction Request due 8/27/2010. Redacted Transcript Deadline set for 9/7/2010. Release of Transcript Restriction set for 11/4/2010. For information on redaction procedures, please review <u>Local Rule 5.5</u> . (RJM) (Entered: 08/09/2010)
08/12/2010	<u>34</u>	MEMORANDUM by Kenneth Leon Wilcox <i>in Support of Defendant's Motion to Suppress Evidence</i> (Attachments: # <u>1</u> Certificate of Service) (Olson, Douglas) (Entered: 08/12/2010)
08/16/2010	<u>35</u>	DOCUMENT FILED IN ERROR- RESPONSE to Motion by USA as to Kenneth Leon Wilcox re <u>24</u> MOTION to Suppress <i>Evidence Obtained as a Result of Search and Seizure</i> (Attachments: # <u>1</u> Certificate of Service)(Svendsen, Kimberly) Modified text on 8/16/2010 (las). (Entered: 08/16/2010)
08/16/2010	<u>36</u>	RESPONSE by USA as to Kenneth Leon Wilcox re <u>34</u> Memorandum (Attachments: # <u>1</u> Certificate of Service) (Svendsen, Kimberly) (Entered: 08/16/2010)
08/20/2010	<u>37</u>	ORDER denying <u>21</u> Motion for Disclosure; granting <u>22</u> Motion to Retain Rough Notes; granting <u>23</u> Motion for Discovery; granting <u>10</u> Motion for Discovery; granting <u>14</u> Motion for Disclosure; granting <u>16</u> Motion to Compel; granting <u>18</u> Motion for Discovery; denying as moot <u>19</u> Motion for Discovery as to Kenneth Leon Wilcox (1). Signed by Magistrate Judge Jeanne J. Graham on 8/20/10. (jdf) (Entered: 08/20/2010)
08/20/2010	<u>38</u>	REPORT AND RECOMMENDATION as to Kenneth Leon Wilcox recommends <u>25</u> MOTION to Suppress <i>Statements, Admissions, and Answers</i> be denied, <u>24</u> MOTION to Suppress <i>Evidence Obtained as a Result of Search and Seizure</i> be denied as moot. Objections to RRRdue by 9/7/2010 RRRuling due by 9/20/2010. Signed by Magistrate Judge Jeanne J. Graham on 8/20/10. (jdf) Modified text on 8/23/2010 (jdf). (Entered: 08/20/2010)
08/31/2010	<u>39</u>	EXHIBIT LIST as to Kenneth Leon Wilcox. (KNK) (Entered: 08/31/2010)
08/31/2010	<u>40</u>	AMENDED DATE CERTAIN TRIAL NOTICE as to Kenneth Leon Wilcox. The Jury Trial is rescheduled for 10/18/2010 at 9:00 AM in Courtroom 15E (MPLS) before Chief Judge Michael J. Davis. Please read the trial notice for all the new deadlines and due dates of trial materials. (KMW) (Entered: 08/31/2010)
09/07/2010	<u>41</u>	OBJECTION TO REPORT AND RECOMMENDATIONS re: <u>38</u> by Kenneth Leon Wilcox (Attachments: # <u>1</u> Certificate of Service) (Olson, Douglas) (Entered: 09/07/2010)
09/10/2010	<u>42</u>	MEMORANDUM by USA as to Kenneth Leon Wilcox re <u>41</u> Objection to Report and Recommendations <i>Government's Memorandum in Response to Defendant's Objections to Report and Recommendation</i> (Attachments: # <u>1</u> Certificate of Service) (Svendsen, Kimberly) (Entered: 09/10/2010)
09/30/2010	<u>43</u>	ORDER. The Court will adopt the Report and Recommendation dated August 20, 2010 <u>38</u> . IT IS HEREBY ORDERED that: 1. Defendant's Motion to

		Suppress Evidence Obtained as a Result of Search and Seizure <u>24</u> is DENIED AS MOOT; and 2. Defendant's Motion to Suppress Statements, Admissions and Answers <u>25</u> is DENIED. Signed by Chief Judge Michael J. Davis on 9/30/10. (GRR) (Entered: 09/30/2010)
10/06/2010	<u>44</u>	*TEXT ONLY ENTRY* NOTICE OF SETTING CHANGE OF PLEA as to Kenneth Leon Wilcox. Change of Plea Hearing is set for 10/14/2010 at 11:00 AM in Courtroom 15E (MPLS) before Chief Judge Michael J. Davis. (KMW) (Entered: 10/06/2010)
10/14/2010	<u>45</u>	NOTICE OF ATTORNEY APPEARANCE/SUBSTITUTION for USA. (Schommer, Karen) (Entered: 10/14/2010)
10/14/2010	<u>46</u>	Minute Entry for proceedings held before Chief Judge Michael J. Davis:Change of Plea Hearing as to Kenneth Leon Wilcox (1) held on 10/14/2010. Guilty Plea entered to Counts 1 and 2 of the Indictment, PSI Ordered and Defendant is remanded to the custody of the USM. (Court Reporter Lori Simpson) (KMW) (Entered: 10/14/2010)
10/14/2010	<u>47</u>	PLEA AGREEMENT FILED WITH THE CLERK. (las) (Entered: 10/14/2010)
12/17/2010	<u>48</u>	MOTION for Extension of Time to File Objections to Presentence Investigation Report by Kenneth Leon Wilcox. (Attachments: # <u>1</u> Certificate of Service) (Olson, Douglas) (Entered: 12/17/2010)
12/21/2010	<u>49</u>	ORDER granting <u>48</u> Motion for Extension of Time to File Objections to Presentence Investigation Report as to Kenneth Leon Wilcox (1). Objections are due by 12/31/10. Signed by Chief Judge Michael J. Davis on 12/21/10. (KMW) (Entered: 12/21/2010)
01/06/2011	<u>50</u>	NOTICE of Filing of Official Transcript, as to Kenneth Leon Wilcox. A total of 1 transcripts are associated with this filing. (Simpson, Lori) (Entered: 01/06/2011)
01/06/2011	<u>51</u>	TRANSCRIPT of Change of Plea Hearing held on 10/14/2010 before Chief Judge Michael J. Davis as to Kenneth Leon Wilcox. (25 pages) Court Reporter: Lori Simpson (E-mail: Lori_Simpson@mnd.uscourts.gov. Telephone: (612) 664-5104). Redaction Request due 1/24/2011. Redacted Transcript Deadline set for 2/3/2011. Release of Transcript Restriction set for 4/4/2011. For information on redaction procedures, please review <u>Local Rule 5.5</u> . (Simpson, Lori) (Entered: 01/06/2011)
01/14/2011	<u>52</u>	*TEXT ONLY ENTRY* NOTICE of Setting Sentencing as to Kenneth Leon Wilcox: Sentencing is set for 2/24/2011 at 9:00 AM in Courtroom 15E (MPLS) before Chief Judge Michael J. Davis. (KMW) (Entered: 01/14/2011)
01/21/2011	<u>53</u>	POSITION ON SENTENCING/SENTENCING MEMORANDUM by USA as to Kenneth Leon Wilcox (Attachments: # <u>1</u> Certificate of Service) (Schommer, Karen) (Entered: 01/21/2011)
02/04/2011	<u>54</u>	MOTION FOR PRELIMINARY ORDER OF FORFEITURE by USA as to Kenneth Leon Wilcox. (Alexander, James) (Entered: 02/04/2011)
02/07/2011	<u>55</u>	Amended MOTION FOR PRELIMINARY ORDER OF FORFEITURE by USA as to Kenneth Leon Wilcox. (Alexander, James) (Entered: 02/07/2011)

02/15/2011	<u>56</u>		ORDER granting <u>55</u> Motion for Preliminary Order of Forfeiture as to Kenneth Leon Wilcox (1). Signed by Chief Judge Michael J. Davis on 2/15/11. (KMW) (Entered: 02/15/2011)
02/16/2011	<u>57</u>		MOTION to Continue <i>Sentencing Hearing</i> by Kenneth Leon Wilcox. (Olson, Douglas) (Entered: 02/16/2011)
02/17/2011	<u>58</u>		RESPONSE to Motion by USA as to Kenneth Leon Wilcox re <u>57</u> MOTION to Continue <i>Sentencing Hearing</i> (Svendsen, Kimberly) (Entered: 02/17/2011)
02/17/2011	<u>59</u>		ORDER granting <u>57</u> Motion to Continue as to Kenneth Leon Wilcox (1). Sentencing has been rescheduled for 3/16/11 at 9:00 a.m. before Chief Judge Michael J. Davis in Courtroom 15E. Signed by Chief Judge Michael J. Davis on 2/17/11. (KMW) (Entered: 02/17/2011)
02/22/2011	60		*TEXT ONLY ENTRY* NOTICE of Rescheduling Sentencing as to Kenneth Leon Wilcox. Sentencing is rescheduled for 4/5/2011 at 2:00 PM in Courtroom 15E (MPLS) before Chief Judge Michael J. Davis. (KMW) (Entered: 02/22/2011)
04/01/2011	<u>61</u>		POSITION ON SENTENCING/SENTENCING MEMORANDUM by Kenneth Leon Wilcox (Olson, Douglas) (Entered: 04/01/2011)
04/04/2011	<u>62</u>		RESPONSE by USA as to Kenneth Leon Wilcox re <u>61</u> Position on Sentencing/Sentencing Memorandum (Svendsen, Kimberly) (Entered: 04/04/2011)
04/05/2011	<u>63</u>		Minute Entry for proceedings held before Chief Judge Michael J. Davis: Sentencing held on 4/5/2011 for Kenneth Leon Wilcox. (Court Reporter Lori Simpson) (KMW) (Entered: 04/05/2011)
04/08/2011	<u>64</u>		SENTENCING JUDGMENT as to Kenneth Leon Wilcox (1), SENTENCED to Counts 1 and 2, Custody of the BOP for 480 months consisting of 480 months on Count 1 and 360 months on Count 2 to be served concurrently; Supervised Release term of Life on each of Counts 1 and 2 to run concurrently; \$200.00 total Special Assessment; Restitution is undetermined; Counts 10, 3, 4, 5, 6, 7, 8, 9, Dismissed. Signed by Chief Judge Michael J. Davis on 4/5/11. (GMO) (Entered: 04/08/2011)
04/15/2011	<u>65</u>		NOTICE OF ATTORNEY APPEARANCE/SUBSTITUTION for Kenneth Leon Wilcox. (Menendez, Katherine) (Entered: 04/15/2011)
04/15/2011	<u>66</u>		NOTICE OF APPEAL by Kenneth Leon Wilcox (Menendez, Katherine) (Entered: 04/15/2011)
04/18/2011	<u>67</u>		REVISED INFORMATION SHEET TO U. S. COURT OF APPEALS, 8TH CIRCUIT as to Kenneth Leon Wilcox (jdf) (Entered: 04/18/2011)
04/18/2011			Electronic transmission of Notice of Appeal and Docket Sheet as to Kenneth Leon Wilcox to US Court of Appeals re <u>66</u> Notice of Appeal – Final Judgment. Transmitted electronically the following documents: <u>66</u> Notice of Appeal, <u>64</u> Judgment, and <u>67</u> Revised Information Sheet and District Court's Docket Sheet. (jdf) (Entered: 04/18/2011)
04/18/2011			USCA Case Number as to Kenneth Leon Wilcox 11–1835 for <u>66</u> Notice of Appeal – Final Judgment filed by Kenneth Leon Wilcox. (LEG) (Entered: 04/18/2011)

			04/19/2011)
05/05/2011	<u>68</u>		NOTICE of Filing of Official Transcript, as to Kenneth Leon Wilcox. A total of 1 transcripts are associated with this filing. (Simpson, Lori) (Entered: 05/05/2011)
05/05/2011	<u>69</u>		TRANSCRIPT of Sentencing Hearing held on 4/5/2011 before Chief Judge Michael J. Davis as to Kenneth Leon Wilcox. (24 pages) Court Reporter: Lori Simpson (E-mail: Lori_Simpson@mnd.uscourts.gov. Telephone: (612) 664-5104). Redaction Request due 5/23/2011. Redacted Transcript Deadline set for 6/2/2011. Release of Transcript Restriction set for 8/1/2011. For information on redaction procedures, please review <u>Local Rule 5.5</u> . (Simpson, Lori) (Entered: 05/05/2011)
05/06/2011	<u>70</u>		Three (3) Designated Clerk's Records sent to USCA by Kenneth Leon Wilcox re <u>66</u> Notice of Appeal – Final Judgment. (jdf) (Entered: 05/09/2011)
06/01/2011	<u>71</u>		DECLARATION OF PUBLICATION by USA as to Kenneth Leon Wilcox (Attachments: # <u>1</u> Attachment 1) (Alexander, James) (Entered: 06/01/2011)
06/22/2011	<u>72</u>		MOTION FOR FINAL ORDER OF FORFEITURE by USA as to Kenneth Leon Wilcox. (Alexander, James) (Entered: 06/22/2011)
06/28/2011	<u>73</u>		ORDER granting <u>72</u> MOTION FOR FINAL ORDER OF FORFEITURE as to Kenneth Leon Wilcox (1). Signed by Chief Judge Michael J. Davis on 6/27/11. (KMW) (Entered: 06/28/2011)
06/28/2011	<u>74</u>		JUDGMENT OF FORFEITURE as to Kenneth Leon Wilcox. (jdf) (Entered: 06/28/2011)
01/27/2012	<u>75</u>		Opinion of USCA (electronic copy) as to Kenneth Leon Wilcox re <u>66</u> Notice of Appeal – Final Judgment. (LEG) (Entered: 01/30/2012)
01/27/2012	<u>76</u>		JUDGMENT of USCA (electronic copy) as to Kenneth Leon Wilcox re <u>66</u> Notice of Appeal – Final Judgment.(LEG) (Entered: 01/30/2012)
02/17/2012	<u>77</u>		MANDATE of USCA (electronic copy) as to Kenneth Leon Wilcox. (LEG) (Entered: 02/17/2012)
03/08/2012	<u>78</u>		TRANSMITTAL OF RECORDS, as to Kenneth Leon Wilcox, Re: Transcripts <u>51</u> , <u>33</u> , <u>69</u> received from the USCA. (jdf) Document QC'd on 3/14/2012 (GMO). (Entered: 03/08/2012)
03/26/2013	<u>79</u>		PRO SE MOTION for a 90 Day Extension on Filing Dates by Kenneth Leon Wilcox. (Attachments: # <u>1</u> Envelope) (LEG) Document QC'd by jdf. Modified text on 3/27/2013 (jdf). (Entered: 03/27/2013)
04/02/2013	<u>80</u>		ORDER denying <u>79</u> Motion for Extension of Time to File as to Kenneth Leon Wilcox (1). Signed by Chief Judge Michael J. Davis on 4/2/13. (KMW) cc: Deft. Modified text on 4/3/2013 (jdf). (Entered: 04/02/2013)
05/06/2013	<u>81</u>		PRO SE MOTION to Vacate under 28 U.S.C. 2255 by Kenneth Leon Wilcox. (Attachments: # <u>1</u> Attachment, # <u>2</u> Envelope) (las) Civil case 0:13-cv-01067-MJD opened.DOCUMENT QC'D ON 5/8/13 LGL Modified on 5/8/2013 (LGL). (Entered: 05/07/2013)
05/08/2013	<u>82</u>		

			ORDER FOR BRIEFING SCHEDULED ON 2255 MOTION re <u>81</u> MOTION to Vacate under 28 U.S.C. 2255 filed by Kenneth Leon Wilcox as to Kenneth Leon Wilcox. Signed by Chief Judge Michael J. Davis on 5/7/13. (KMW) cc: Deft. Modified text on 5/9/2013 (jdf). (Entered: 05/08/2013)
05/17/2013	<u>83</u>		NOTICE of Adding an Attorney in a Criminal Case by USA as to Kenneth Leon Wilcox (Bejar, Benjamin) (Entered: 05/17/2013)
06/04/2013	<u>84</u>		MOTION for Extension of Time to File Response/Reply by USA as to Kenneth Leon Wilcox. (Attachments: # <u>1</u> Certificate of Service) (Bejar, Benjamin) (Entered: 06/04/2013)
06/07/2013	<u>85</u>		ORDER granting <u>84</u> Motion for Extension of Time to File Response/Reply as to Kenneth Leon Wilcox (1). Response is due 7/10/13 and reply is due 8/19/13. Signed by Chief Judge Michael J. Davis on 6/7/13. (KMW) cc: Deft. Modified text on 6/7/2013 (jdf). (Entered: 06/07/2013)
07/09/2013	<u>86</u>		RESPONSE to Motion by USA as to Kenneth Leon Wilcox re <u>81</u> MOTION to Vacate under 28 U.S.C. 2255 (Attachments: # <u>1</u> Certificate of Service)(Bejar, Benjamin) (Entered: 07/09/2013)
08/20/2013	<u>87</u>		PRO SE MOTION for Additional Time by Kenneth Leon Wilcox. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope) (MKG) Document QC'd by jdf. Modified text on 9/10/2013 (jdf). (Entered: 08/20/2013)
08/21/2013	<u>88</u>		ORDER granting <u>87</u> Motion for Extension of Time to File Response/Reply as to Kenneth Leon Wilcox (1). Reply brief shall be due on or before 9/23/13. Signed by Chief Judge Michael J. Davis on 8/21/13. cc: K. Wilcox. (KMW) Modified 8/22/13. (GMW) (Entered: 08/21/2013)
09/23/2013	<u>89</u>		PRO SE MOTION for Additional Time to File Response/Reply by Kenneth Leon Wilcox. (Attachments: # <u>1</u> Envelope) (MKG) Document QCd by leg. Modified text on 10/3/13 (LEG). (Entered: 09/24/2013)
09/25/2013	<u>90</u>		ORDER granting <u>89</u> Motion for Extension of Time to File Response/Reply as to Kenneth Leon Wilcox (1). Reply shall be due 11/25/13. Signed by Chief Judge Michael J. Davis on 9/25/13. (KMW) cc: K. Wilcox. Modified on 9/26/2013 (GMW). (Entered: 09/25/2013)
12/03/2013	<u>91</u>		PRO SE PETITIONER'S REBUTTAL to Government's Response to Defendant's Motion Under 28 U.S.C.S. §2255 by Kenneth Leon Wilcox re <u>86</u> . (Attachments: # <u>1</u> Envelope) (LEG) Document QCd by mkg. Modified text on 12/27/2013 (MKG). (Entered: 12/03/2013)
12/19/2013	<u>92</u>	13	ORDER. IT IS HEREBY ORDERED that the Petition to Vacate, Correct or Set Aside Sentence <u>81</u> is DENIED. The Court denies a certificate of appealability in this case.LET JUDGMENT BE ENTERED ACCORDINGLY. (Written Opinion). Signed by Chief Judge Michael J. Davis on 12/19/13. (GRR) Civil Case 0:13-cv-01067-MJD closed. Modified text on 12/20/2013 (LEG). cc: Defendant (Entered: 12/19/2013)
12/20/2013	<u>93</u>	25	JUDGMENT as to Kenneth Leon Wilcox. Appeal packet mailed to defendant.. cc: Defendant (LEG) (Entered: 12/20/2013)
03/07/2014	<u>94</u>	26	

			PRO SE NOTICE OF APPEAL by Kenneth Leon Wilcox re <u>93</u> Judgment, <u>92</u> Order on Motion to Vacate (2255). (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)(LEG) (Entered: 03/11/2014)
03/11/2014	<u>95</u>	31	REVISED INFORMATION SHEET TO U. S. COURT OF APPEALS, 8TH CIRCUIT as to Kenneth Leon Wilcox. (LEG) (Entered: 03/11/2014)
03/11/2014			Electronic transmission of Notice of Appeal and Docket Sheet as to Kenneth Leon Wilcox to US Court of Appeals re <u>94</u> Notice of Appeal – Order. Transmitted electronically the following documents: Notice of Appeal <u>94</u> , Order <u>92</u> , Judgment <u>93</u> , Revised Information Sheet <u>95</u> and District Court's Docket Sheet. (LEG) (Entered: 03/11/2014)
03/11/2014	<u>96</u>		Letter from from Clerk's Office to Kenneth Leon Wilcox re: <u>94</u> Notice of Appeal. (LEG) (Entered: 03/11/2014)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff/Respondent,

v.

ORDER
Crim. No. 10-173 (MJD)

Kenneth Leon Wilcox,

Defendant/Petitioner.

Petitioner, on his own behalf.

Benjamin Bejar, Assistant United States Attorney, Counsel for Respondent.

This matter is before the Court upon Petitioner's Motion to Vacate, Set Aside, or Correct his Sentence pursuant to 28 U.S.C. § 2255.

I. Factual/Procedural Background

On June 15, 2010, Petitioner was charged by Indictment with multiple counts of transportation of a minor with intent to engage in criminal sexual activity and production of child pornography, in violation of 18 U.S.C. §§ 2423(a) and 2251(a), (e). On October 14, 2010, Petitioner entered into a Plea Agreement and pleaded guilty to counts 1 and 2 in the Indictment. (Doc. No. 47.)

In the Plea Agreement, Petitioner stipulated to certain facts underlying the charges to which he entered guilty pleas, including that he transported a minor with the intent to engage in criminal sexual activity, and that he in fact had sexual intercourse with a fourteen year old female in the cab of his truck. He further admitted that he used a Sony Handy Cam video recorder to produce a videotape of a minor female engaging in sexually explicit conduct. At the Plea Hearing, Petitioner again admitted to such conduct while under oath. (Plea Tr. at 19-23.)

The statutory penalty for count 1 was ten years to life, and for count 2, 15 years to 30 years. This Court calculated the applicable sentencing guideline range to be life imprisonment. The Court varied downward from the applicable range and sentenced Petitioner to a term of imprisonment for 480 months, which consisted of 480 months on count 1 and 360 months on count 2.

Petitioner appealed his sentence to the Eighth Circuit Court of Appeals, arguing that a sentence of 480 months was substantively unreasonable because this Court did not give proper weight to his lack of criminal history, his genuine remorse and efforts at rehabilitation and his low risk of recidivism. In addition, Petitioner argued that the Court failed to consider the sexual abuse he

experienced as a child. The Eighth Circuit rejected Petitioner's arguments, and affirmed his sentence. United States v. Wilcox, 666 F.3d 1154 (8th Cir. 2012). Final judgment was entered on January 27, 2012. Petitioner filed the instant motion on May 6, 2013.

In his § 2255 motion, Petitioner asserts he is entitled to relief on three grounds: that his convictions are based on tainted or tampered with evidence; unlawful search and seizure; and that this Court was racist and prejudiced against sexual offenders.

II. Statute of Limitations

A petition pursuant to 28 U.S.C. § 2255 must be filed within one year of the latest of four dates:

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

28 U.S.C. § 2255(f).

In this case, the Eighth Circuit affirmed Petitioner's sentence and entered judgment on January 27, 2012. That judgment became final "when the time expire[d] for filing a petition for certiorari contesting the appellate court's" decision. Clay v. United States, 537 U.S. 522, 525 (2003). The time for filing a writ of certiorari is within 90 days after entry of judgment. Supreme Court Rules 13(1). As applied here, Petitioner had to have filed a writ of certiorari on or before April 27, 2012. Because he did not file a writ of certiorari, a petition pursuant to 28 U.S.C. § 2255 had to have been filed on or before April 27, 2013.

The Rules Governing Section 2255 Proceedings 3(d) provides

A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 or by a notarized statement, either of which must set forth the date of deposit and state that first class postage has been prepaid.

See also, Grady v. United States, 269 F.3d 913, 916-17 (8th Cir. 2001) (applying prison mailbox rule to determine whether § 2255 motion was timely filed).

In his § 2255 motion, the Petitioner declared that he placed said motion in the prison mailing system on April 24, 2013. (Doc. No. at 13.) This declaration is in compliance with the requirements of 28 U.S.C. § 1746. Accordingly, the motion will be deemed timely filed.

III. Standard

Under 28 U.S.C. § 2255, “[a] prisoner in custody under sentence . . . claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence . . . or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.” 28 U.S.C. § 2255(a).

Section 2255 is intended to provide federal prisoners a remedy for jurisdictional or constitutional errors. Sun Bear v. United States, 644 F.3d 700, 704 (8th Cir. 2011). It is not intended to be a substitute for appeal or to relitigate matters decided on appeal. See Bousley v. United States, 523 U.S. 614, 621 (1998); Davis v. United States, 417 U.S. 333, 346-47 (1974)). Failure to raise an issue on direct appeal generally constitutes a procedural default, which prohibits the petitioner from raising the issue for the first time in a § 2255 motion. Bousley, 523

U.S. at 621. A procedural default will be excused only if the petitioner can demonstrate cause and actual prejudice or that he is actually innocent. Id. at 622. See also Lindsey v. United States, 615 F.3d 998, 1000 (8th Cir. 2010); United States v. Bailey, 235 F.3d 1069, 1072 (8th Cir. 2000).

As noted above, the only issues Petitioner raised on appeal involved his sentence. In this proceeding, Petitioner challenges the evidence supporting his conviction as well as the perceived bias of the sentencing judgment - arguments that were not raised on appeal. In his rebuttal brief, however, Petitioner asserts that he received ineffective assistance of counsel, and that “Petitioner does not, at this time, pursue the remaining three issues as listed in his § 2255 except as those issues may further support his claim of ineffective assistance.” (Doc. 91 at 5.) Because claims of ineffective assistance of counsel may constitute both cause and prejudice to excuse a procedural default, the Court will proceed to address the merits of his claims. See Boysiewick v. Schriro, 179 F.3d 616, 619 (8th Cir. 1999) (citation omitted).

IV. Analysis

A. Ineffective Assistance of Counsel

Claims of ineffective assistance of counsel must be scrutinized under the two-part test set forth in Strickland v. Washington, 466 U.S. 668 (1984). Under the Strickland test, Petitioner must prove that 1) counsel's representation was deficient, and 2) counsel's deficient performance prejudiced Petitioner's case. Cheek v. United States, 858 F.2d 1330, 1336 (8th Cir. 1988) (citing Strickland, 466 U.S. at 687).

To satisfy the first prong of the Strickland test, Petitioner must show that counsel's representation fell below an objective standard of reasonableness under professional norms. Strickland, 466 U.S. at 688. The inquiry should be whether counsel's assistance was reasonable considering all of the circumstances surrounding the case. Id. Judicial scrutiny of counsel's performance should be highly deferential and the general presumption is that counsel's conduct "falls within the wide range of reasonable professional assistance." Id. at 689. To satisfy the second prong under the Strickland test, Petitioner must show that but for counsel's errors, the outcome of the proceedings would have been different. Id. at 691. The analysis may begin with the second prong and if Petitioner fails to show actual prejudice, the Court need not consider the reasonableness of

counsel's behavior. Id. Here, the Court will focus on the second prong - actual prejudice.

1. Failure to Investigate

Petitioner asserts that defense counsel did not investigate this case and advised him to admit guilt to crimes the government dismissed as set forth in the plea agreement. Petitioner believes he did not fare any better by entering into a Plea Agreement, than he would have had he gone to trial on all counts.

At his Plea Hearing, Petitioner was questioned at length as to the terms of the Plea Agreement, and whether he understood those terms. He was also advised of his constitutional rights, and what rights he was giving up by entering a guilty plea in this case. Petitioner further informed the Court that he had enough time to discuss the Plea Agreement with his attorney, and that his attorney fully and completely explained his rights. (Tr. at 17.) Petitioner confirmed that he discussed strategy with his attorney, the evidence against him and also any defenses he could assert at trial. (Id.) He further stated that he understood that he had a right to trial, and by entering into a Plea Agreement, "I'm forfeiting the right to the speedy trial and I'm placing myself into your hands as to my sentencing." (Id. at 18.)

In addition, Petitioner acknowledged that although he was not pleading guilty to counts 3-10, the conduct underlying those counts would be considered relevant conduct, and that he admitted such conduct. (Id. at 21.)

The Petitioner's statements at his Plea hearing "carry a strong presumption of verity." Pennington v. Housewright, 666 F.2d 329, 331 (8th Cir. 1981) (quoting Blackledge v. Allison, 431 U.S. 63, 73 (1977)). Petitioner has failed to put forth sufficient evidence by which to overcome this presumption. In addition, Petitioner has not demonstrated how the result of this proceeding would have been different if counsel had done additional investigation, or if Petitioner had gone to trial.

2. Claim that Evidence Supporting Conviction was Tainted or Tampered With

Petitioner does not provide any detailed information in support of this claim. He asserts only that "the person openly admitted that they so called hooked it up and viewed the evidence." (Doc. No. 81 at 4.) Because Petitioner has provided insufficient allegations to support this claim, he has failed to demonstrate that he is entitled to relief under this ground.

3. Unlawful Search and Seizure

Petitioner asserts that during a state search warrant, evidence was removed from a storage trailer, his house and truck, and other evidence was also removed but not listed as being removed. He did not elaborate on what evidence was illegally seized. As a result, he has failed to provide sufficient facts to support a claim for relief.

4. Bias of the Sentencing Court

Petitioner claims that the sentencing court was racist and had a prejudice against individuals convicted of a sex crime based on comments made at the sentencing hearing. Petitioner asserts that the court should not “hang a person out to dry in a personal mission to smash or hang all so called sex offenders out to dry.” (Doc. No. 81 at 7.) Petitioner asserts his sentence was unreasonably longer than needed. (Id.)

On appeal, the Petitioner argued that his sentence was substantively unreasonable. In affirming the sentence, the Eighth Circuit noted that it reviewed the record, as well as the statements of the district court at sentencing. The Eighth Circuit determined that the “transcript demonstrates that the district court was skeptical of Wilcox’s claims of remorse and placed a great deal of weight on

the monstrous nature of Wilcox's offense." Wilcox, 666 F.3d at 1157. The Eighth Circuit further noted that the district court had reviewed the videotapes confiscated by law enforcement and the horrifyingly detailed sex contracts that he made the victim sign. "Thus, the record reveals that the district court believed that the nature and circumstances of Wilcox's offense deserved greater consideration under section 3553(a) than any of the mitigating factors presented by Wilcox, which is a determination well within the discretion of the district court." Id.

It is thus apparent that this Court based its sentencing decision on the particular facts of this case, and not on a general prejudice against sex offenders. Accordingly, this claim has no merit.

V. Certificate of Appealability

An applicant for a writ of habeas corpus may not take an appeal unless a judge issues a certificate of appealability under 28 U.S.C. § 2253(c); see also Fed. R. App. P. 22. In order for a certificate of appealability to issue, an applicant must make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the

issues deserve further proceedings.” Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997). Based on the files, records, and proceedings herein, the Court finds no basis upon which to grant Petitioner a certificate of appealability.

IT IS HEREBY ORDERED that the Petition to Vacate, Correct or Set Aside Sentence [Doc. No. 81] is **DENIED**. The Court denies a certificate of appealability in this case.

LET JUDGMENT BE ENTERED ACCORDINGLY

Date: December 19, 2013

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court

UNITED STATES DISTRICT COURT

District of Minnesota

United States of America,
Plaintiff,

Crim No. 10-173 (MJD)

v.

JUDGMENT IN A CRIMINAL CASE

Kenneth Leon Wilcox,
Defendant.

(x) **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED that the Petition to Vacate, Correct or Set Aside

Sentence [Doc. No. 81] is **DENIED**. The Court denies a certificate of appealability in this case.

Date: December 20, 2013

RICHARD D. SLETTEN, CLERK

s/Leah E. Gilgenbach

(By) Leah E. Gilgenbach, Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff(s),

vs.

Case No.

Kenneth Leon Wilcox

Crim. Case No. 10-173(MJD)

Defendant(s).

NOTICE OF APPEAL

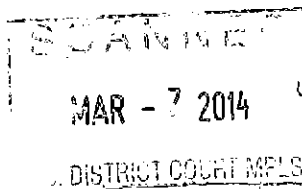
Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties
(provide the names of all parties who are filing an appeal):

Petitioner, Kenneth Leon Wilcox, Pro Se

Benjamin Bejar, Assistant U.S. Attorney, Counsel for Respondent

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the Judgment (indicate whether the
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the
District of Minnesota that was entered on December 20, 2013 (date judgment or order was
entered) that:



RECEIVED

MAR - 6 2014

U.S. COURT OF APPEALS
EIGHTH CIRCUIT

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Appeal the judgment in its entirety.

Signed this 27th day of February, 2014.

Signature of Party Kenneth Leon Wilcox

Mailing Address

U.S. Penitentiary Tucson
P.O. Box 24550
Tucson AZ 85734

Telephone Number 0

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

**CERTIFICATE OF
SERVICE FOR
SERVICE BY MAIL**

vs.

Case No.

Defendant(s).

(Enter the full name(s) of ALL plaintiffs
and defendants in this lawsuit. Please
attach additional pages, if necessary.)

I hereby certify that on 2/27/2014 (mm/dd/yyyy), I caused the following
documents: *[List the documents you are going to file and serve.]*

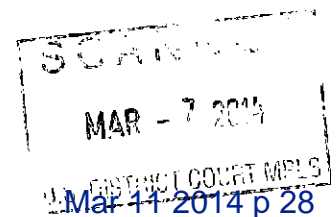
Notice of Appeal

[Check the box, below, that applies to how you served the above documents.]

☐ to be filed electronically with the Clerk of Court through ECF and/or

☒ that I caused a copy of the foregoing documents (and the notice of electronic
filing, if filed electronically) to be mailed by first class mail, postage paid, to the
following: *[List names and addresses of those served by U.S. Mail.]*

U.S. Attorneys
600 U.S. Courthouse
300 South Fourth St.
Minneapolis MN 55415



Date:

s/ Kenneth Leon Wilcox

Signature of filing party

Kenneth Leon Wilcox

Filer's Typed Name

Kenneth Wilcox
Reg. No. 15228-041
U.S. Penitentiary - Tucson
Post Office Box 24550
Tucson, AZ 85732-4550
United States

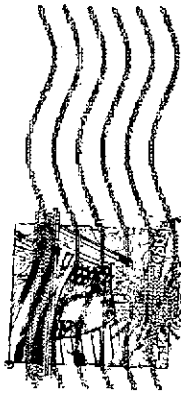
↔15228-041↔

Eighth Circuit Court Of
Appeals Clerk's Office
111 S 10TH ST
Room 24.329
Saint Louis, MO 63102
United States

63102112779

PHOENIX AZ 852

04 MAR 2014 PM 4 L



LEONARD MALL

UNITED STATES DISTRICT COURT
District of Minnesota

REVISED INFORMATION SHEET - Criminal Cases Only

1. United States of America -v- Kenneth Leon Wilcox CR 10-173 MJD/JJG and CV 13-1067
2. Defendant and Address: Kenneth Leon Wilcox
Reg No. 15228-041
USP - Tucson
P.O. Box 24550
Tucson AZ 85734
3. Date of verdict: (x) Guilty plea entered
4. Appealing: (x) Order denying Motion to Vacate (2255)
5. Sentence: Custody of BOP for 480 months, supervised released for life, spec asmt of \$200.00
6. Date sentence imposed: 4/5/11
7. Defendant incarcerated? (x) Yes
8. Financial Status: Fee paid? (x) N/A Counsel previously appointed () N/A Govt appeal
9. Notice of Appeal was filed on 3/7/14
10. Court Reporter: N/A, no hearing held on the Motion to Vacate
11. Trial Counsel: Katherine M. Menendez - Appeal filed Pro Se
12. Trial counsel was: (X) Previously Appointed (X) N/A Pro Se
Is there any reason why trial counsel should not be appointed on appeal? () yes () No
13. Assistant U.S. Attorney: Benjamin Bejar, Karen B. Schommer and Kimberly A. Svendsen PHONE #: (612) 664-5600
14. List of other defendants in this case & disposition:
15. Additional Comments:
Probation-Please send the PSI, addendums and Statement of Reasons to the Criminal Unit (STP).

Prepared by: leg